

AMENDED IN SENATE JUNE 7, 2010

AMENDED IN SENATE JUNE 25, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1507

**Introduced by Assembly Member ~~Block Lieu~~
(~~Coauthor: Assembly Member Chesbro~~)**

February 27, 2009

An act to amend Sections 42101.1, 42101.3, 42102, 42103, 42106, and 42107 of, to add Section 42101.4 to, to repeal Sections 42101.2 and 42105 of, and to repeal and add Section 42101 of, the Public Resources Code, relating to hazardous materials. An act to amend Section 44283 of, and to add Sections 39626.1 and 44287.2 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1507, as amended, ~~Block Lieu. Hazardous materials: metal plating facilities. Motor vehicle emission reduction projects.~~

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program and the Goods Movement Emission Reduction Program, which provide state funds to reduce emissions from motor vehicles, as provided.

This bill would require the State Air Resources Board, by July 1, 2011, to revise project guidelines to allow funds from specified programs and funding sources to be used for a project also funded under the Carl Moyer Memorial Air Quality Standards Attainment Program or the Goods Movement Emission Reduction Program without those additional public funds being factored into the criteria emission reduction cost-effectiveness calculations under either of those programs.

~~Existing law establishes, until January 1, 2012, a loan guarantee program, developed and administered by the Business, Transportation and Housing Agency, to assist chrome plating facilities to purchase high performance environmental control equipment or technologies. Existing law establishes in the State Treasury the Chrome Plating Pollution Prevention Fund to receive deposits of state, federal, and local governmental money, and other public or private money, for expenditure by the agency, upon appropriation by the Legislature, to make loan guarantees available to eligible metal plating facilities.~~

~~This bill would revise and recast the program to instead establish until January 1, 2014, the Chrome Plating and Metal Finishing Pollution Prevention Grant Program to be administered by the Department of Toxic Substances Control. The bill would rename the above fund the Chrome Plating and Metal Finishing Pollution Prevention Fund. The department would be authorized to expend, upon appropriation by the Legislature, money in the fund to make grants that do not exceed 50% of the project cost or \$75,000, whichever is less to metal plating facilities to be used for pollution prevention improvements. The bill would prohibit the department from awarding additional grants upon the exhaustion of moneys in the fund. The bill would also make conforming changes.~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.~~

The people of the State of California do enact as follows:

- 1 *SECTION 1. Section 39626.1 is added to the Health and Safety*
- 2 *Code, to read:*
- 3 *39626.1. (a) By July 1, 2011, the state board shall revise*
- 4 *project guidelines pursuant to Section 39626 to allow funds from*
- 5 *all of the following programs or funding sources to be used for a*
- 6 *project also funded under this chapter without those additional*
- 7 *public funds being factored into the criteria emission reduction*
- 8 *cost-effectiveness calculations:*
- 9 *(1) Federal funding from programs designed to reduce*
- 10 *greenhouse gas emissions.*
- 11 *(2) Alternative and Renewable Fuel and Vehicle Technology*
- 12 *Program (Article 2 (commencing with Section 44272) of Chapter*
- 13 *8.9 of Part 5).*

1 ***(b) Nothing in this section authorizes the expenditure of funds***
2 ***for a project that does not meet all of the requirements of this***
3 ***chapter, including requirements that require cost sharing or***
4 ***matching of funds. Subdivision (a) does not apply if the additional***
5 ***expenditure would not provide an incremental air quality, or***
6 ***greenhouse gas emission reduction, benefit greater than what***
7 ***would otherwise be achieved by the program. The state board shall***
8 ***not exclude funds from the cost-effectiveness calculation pursuant***
9 ***to subdivision (a), if excluding those funds would reduce the***
10 ***emission reduction benefits expected to be achieved from this***
11 ***chapter, federal greenhouse gas emission reduction programs, or***
12 ***the Alternative and Renewable Fuel and Vehicle Technology***
13 ***Program.***

14 ***SEC. 2. Section 44283 of the Health and Safety Code, as***
15 ***amended by Section 1 of Chapter 627 of the Statutes of 2006, is***
16 ***amended to read:***

17 ***44283. (a) Grants shall not be made for projects with a***
18 ***cost-effectiveness, calculated in accordance with this section, of***
19 ***more than thirteen thousand six hundred dollars (\$13,600) per ton***
20 ***of NO_x reduced in California or a higher value that reflects state***
21 ***consumer price index adjustments on or after January 1, 2006, as***
22 ***determined by the state board. For projects obtaining reactive***
23 ***organic gas and particulate matter reductions, the state board shall***
24 ***determine appropriate adjustment factors to calculate a weighted***
25 ***cost-effectiveness.***

26 ***(b) Only covered emission reductions occurring in this state***
27 ***shall be included in the cost-effectiveness determination. The***
28 ***extent to which emissions generated at sea contribute to air quality***
29 ***in California nonattainment areas shall be incorporated into these***
30 ***methodologies based on a reasonable assessment of currently***
31 ***available information and modeling assumptions.***

32 ***(c) The state board shall develop protocols for calculating the***
33 ***surplus covered emission reductions in California from***
34 ***representative project types over the life of the project.***

35 ***(d) The cost of the covered emission reduction is the amount***
36 ***of the grant from the program, including matching funds provided***
37 ***pursuant to subdivision (e) of Section 44287, plus any other state***
38 ***funds, or funds under the district's budget authority or fiduciary***
39 ***control, provided toward the project, not including funds described***
40 ***in paragraphs (1) and (2) of subdivision (a) of Section 44287.2.***

1 The state board shall establish reasonable methodologies for
2 evaluating project cost-effectiveness, consistent with the definition
3 contained in paragraph (4) of subdivision (a) of Section 44275,
4 and with accepted methods, taking into account a fair and
5 reasonable discount rate or time value of public funds.

6 (e) A grant shall not be made that, net of taxes, provides the
7 applicant with funds in excess of the incremental cost of the project.
8 Incremental lease costs may be capitalized according to guidelines
9 adopted by the state board so that these incremental costs may be
10 offset by a one-time grant award.

11 (f) Funds under a district's budget authority or fiduciary control
12 may be used to pay for the incremental cost of liquid or gaseous
13 fuel, other than standard gasoline or diesel, which is integral to a
14 covered emission reducing technology that is part of a project
15 receiving grant funding under the program. The fuel shall be
16 approved for sale by the state board. The incremental fuel cost
17 over the expected lifetime of the vehicle may be offset by the
18 district if the project as a whole, including the incremental fuel
19 cost, meets all of the requirements of this chapter, including the
20 maximum allowed cost-effectiveness. The state board shall develop
21 an appropriate methodology for converting incremental fuel costs
22 over the vehicle lifetime into an initial cost for the purposes of
23 determining project cost-effectiveness. Incremental fuel costs ~~may~~
24 *shall* not be included in project costs for fuels dispensed from any
25 facility that was funded, in whole or in part, from the fund.

26 (g) For purposes of determining any grant amount pursuant to
27 this chapter, the incremental cost of any new purchase, retrofit,
28 repower, or add-on equipment shall be reduced by the value of
29 any current financial incentive that directly reduces the project
30 price, including any tax credits or deductions, grants, or other
31 public financial assistance. Project proponents applying for funding
32 shall be required to state in their application any other public
33 financial assistance to the project.

34 (h) For projects that would repower offroad equipment by
35 replacing uncontrolled diesel engines with new, certified diesel
36 engines, the state board may establish maximum grant award
37 amounts per repower. A repower project shall also be subject to
38 the incremental cost maximum pursuant to subdivision (e).

39 (i) After study of available emission reduction technologies and
40 costs and after public notice and comment, the state board may

1 reduce the values of the maximum grant award criteria stated in
2 this section to improve the ability of the program to achieve its
3 goals. Every year the state board shall adjust the maximum
4 cost-effectiveness amount established in subdivision (a) and any
5 per-project maximum set by the state board pursuant to subdivision
6 (h) to account for inflation.

7 (j) This section shall remain in effect only until January 1, 2015,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2015, deletes or extends that date.

10 *SEC. 3. Section 44283 of the Health and Safety Code, as*
11 *amended by Section 2 of Chapter 627 of the Statutes of 2006, is*
12 *amended to read:*

13 44283. (a) Grants shall not be made for projects with a
14 cost-effectiveness, calculated in accordance with this section, of
15 more than twelve thousand dollars (\$12,000) per ton of NO_x
16 reduced in California or a higher value that reflects state consumer
17 price index adjustments on or after January 1, 2015, as determined
18 by the state board.

19 (b) Only NO_x reductions occurring in this state shall be included
20 in the cost-effectiveness determination. The extent to which
21 emissions generated at sea contribute to air quality in California
22 nonattainment areas shall be incorporated into these methodologies
23 based on a reasonable assessment of currently available information
24 and modeling assumptions.

25 (c) The state board shall develop protocols for calculating the
26 surplus NO_x reductions in California from representative project
27 types over the life of the project.

28 (d) The cost of the NO_x reduction is the amount of the grant
29 from the program, including matching funds provided pursuant to
30 subdivision (e) of Section 44287, plus any other state funds, or
31 funds under the district's budget authority or fiduciary control,
32 provided toward the project, *not including funds described in*
33 *paragraphs (1) and (2) of subdivision (a) of Section 44287.2.* The
34 state board shall establish reasonable methodologies for evaluating
35 project cost-effectiveness, consistent with the definition contained
36 in *paragraph (4) of subdivision-(e) (a) of Section 44275,* and with
37 accepted methods, taking into account a fair and reasonable
38 discount rate or time value of public funds.

39 (e) A grant shall not be made that, net of taxes, provides the
40 applicant with funds in excess of the incremental cost of the project.

1 Incremental lease costs may be capitalized according to guidelines
2 adopted by the state board so that these incremental costs may be
3 offset by a one-time grant award.

4 (f) Funds under a district's budget authority or fiduciary control
5 may be used to pay for the incremental cost of liquid or gaseous
6 fuel, other than standard gasoline or diesel, which is integral to a
7 NO_x reducing technology that is part of a project receiving grant
8 funding under the program. The fuel shall be approved for sale by
9 the state board. The incremental fuel cost over the expected lifetime
10 of the vehicle may be offset by the district if the project as a whole,
11 including the incremental fuel cost, meets all of the requirements
12 of this chapter, including the maximum allowed cost-effectiveness.
13 The state board shall develop an appropriate methodology for
14 converting incremental fuel costs over the vehicle lifetime into an
15 initial cost for the purposes of determining project
16 cost-effectiveness. Incremental fuel costs ~~may~~ *shall* not be included
17 in project costs for fuels dispensed from any facility that was
18 funded, in whole or in part, from the fund.

19 (g) For purposes of determining any grant amount pursuant to
20 this chapter, the incremental cost of any new purchase, retrofit,
21 repower, or add-on equipment shall be reduced by the value of
22 any current financial incentive that directly reduces the project
23 price, including any tax credits or deductions, grants, or other
24 public financial assistance. Project proponents applying for funding
25 shall be required to state in their application any other public
26 financial assistance to the project.

27 (h) For projects that would repower offroad equipment by
28 replacing uncontrolled diesel engines with new, certified diesel
29 engines, the state board may establish maximum grant award
30 amounts per repower. A repower project shall also be subject to
31 the incremental cost maximum pursuant to subdivision (e).

32 (i) After study of available emission reduction technologies and
33 costs and after public notice and comment, the state board may
34 reduce the values of the maximum grant award criteria stated in
35 this section to improve the ability of the program to achieve its
36 goals. Every year the state board shall adjust the maximum
37 cost-effectiveness amount established in subdivision (a) and any
38 per-project maximum set by the state board pursuant to subdivision
39 (h) to account for inflation.

40 (j) This section shall become operative on January 1, 2015.

1 SEC. 4. Section 44287.2 is added to the Health and Safety
2 Code, to read:

3 44287.2. (a) By July 1, 2011, the state board shall revise
4 project grant criteria and guidelines pursuant to Section 44287
5 to allow funds from all of the following programs or funding
6 sources to be used for a project also funded under this chapter
7 without those additional public funds being factored into the
8 criteria emission reduction cost-effectiveness calculations:

9 (1) Federal funding from programs designed to reduce
10 greenhouse gas emissions.

11 (2) Alternative and Renewable Fuel and Vehicle Technology
12 Program (Article 2 (commencing with Section 44272) of Chapter
13 8.9).

14 (b) Nothing in this section authorizes the expenditure of funds
15 for a project that does not meet all of the requirements of this
16 chapter, including requirements that require cost sharing or
17 matching of funds. Subdivision (a) does not apply if the additional
18 expenditure would not provide an incremental air quality, or
19 greenhouse gas emission reduction, benefit greater than what
20 would otherwise be achieved by the program. The state board shall
21 not exclude funds from the cost-effectiveness calculation pursuant
22 to subdivision (a), if excluding those funds would reduce the
23 emission reduction benefits expected to be achieved from this
24 chapter, federal greenhouse gas emission reduction programs, or
25 the Alternative and Renewable Fuel and Vehicle Technology
26 Program.

27 ~~SECTION 1. Section 42101 of the Public Resources Code is~~
28 ~~repealed.~~

29 ~~SEC. 2. Section 42101 is added to the Public Resources Code,~~
30 ~~to read:~~

31 ~~42101. There is hereby created in the department the Chrome~~
32 ~~Plating and Metal Finishing Pollution Prevention Grant Program.~~

33 ~~SEC. 3. Section 42101.1 of the Public Resources Code is~~
34 ~~amended to read:~~

35 ~~42101.1. The department shall only make grants available to~~
36 ~~applicants that meet all of the following eligibility requirements:~~

37 ~~(a) The applicant is a small business, as defined in subdivision~~
38 ~~(d) of Section 14837 of the Government Code.~~

39 ~~(b) The applicant owns or operates a metal plating facility.~~

40 ~~(c) The applicant satisfies one of the following conditions:~~

1 ~~(1) Has completed or is currently participating in the Model~~
2 ~~Shop Program for metal platers.~~

3 ~~(2) Has completed or is currently participating in the National~~
4 ~~Metal Finishing Strategic Goals Program.~~

5 ~~(3) Is participating in a green business program whose goals~~
6 ~~are consistent with the pollution prevention and natural resource~~
7 ~~conservation elements of the Model Shop Program.~~

8 ~~(4) Is certified as a green business whose goals are consistent~~
9 ~~with the pollution prevention and natural resource conservation~~
10 ~~elements of the Model Shop Program.~~

11 ~~(d) The applicant demonstrates that moneys obtained pursuant~~
12 ~~to this section will be used for pollution prevention improvement~~
13 ~~that will allow the facility to exceed existing regulatory~~
14 ~~requirements, and that the facility has no pending local, state, or~~
15 ~~federal enforcement or correction actions.~~

16 ~~(e) For the purposes of this section, “pollution prevention~~
17 ~~improvement” means the retrofitting of a metal plating facility or~~
18 ~~equipment that results in the reduction of chromium or other toxic~~
19 ~~metal emissions to a level that exceeds existing regulatory~~
20 ~~requirements.~~

21 ~~SEC. 4. Section 42101.2 of the Public Resources Code is~~
22 ~~repealed.~~

23 ~~SEC. 5. Section 42101.3 of the Public Resources Code is~~
24 ~~amended to read:~~

25 ~~42101.3. The department shall carry out all of the requirements~~
26 ~~of this chapter and shall consult with the California Environmental~~
27 ~~Protection Agency, local environmental regulatory agencies, and~~
28 ~~other interested parties, as needed.~~

29 ~~SEC. 6. Section 42101.4 is added to the Public Resources Code,~~
30 ~~to read:~~

31 ~~42101.4. (a) The department may issue a grant to an applicant~~
32 ~~pursuant to Section 42101.1, upon the applicant’s completion of~~
33 ~~pollution prevention improvements to the applicant’s metal plating~~
34 ~~facility.~~

35 ~~(b) The amount of the grant issued pursuant to Section 42101.1~~
36 ~~shall be determined based on the proximity to sensitive receptors,~~
37 ~~potential for toxic contaminant reduction, the facility’s past record~~
38 ~~of pollution prevention involvement, and other factors the~~
39 ~~department deems pertinent. The amount of the grant shall not~~

1 exceed 50 percent of the total project cost or seventy-five thousand
2 dollars (\$75,000), whichever is less.

3 (e) Upon the exhaustion of moneys in the Chrome Plating and
4 Metal Finishing Pollution Prevention Fund, the department shall
5 not make any additional grants.

6 SEC. 7. ~~Section 42102 of the Public Resources Code is~~
7 ~~amended to read:~~

8 42102. (a) There is hereby created, in the State Treasury, the
9 Chrome Plating and Metal Finishing Pollution Prevention Fund,
10 for the sole purpose of receiving deposits of state, federal, or local
11 government money, and other public or private money, for
12 expenditure, upon appropriation by the Legislature, by the
13 Department of Toxic Substances Control.

14 (b) Notwithstanding Section 16305.7 of the Government Code,
15 all interest or other increments resulting from the investment of
16 the moneys in the Chrome Plating and Metal Finishing Pollution
17 Prevention Fund pursuant to Article 4 (commencing with Section
18 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the
19 Government Code shall be deposited in the fund.

20 (c) The moneys in the fund shall be expended by the department,
21 upon appropriation by the Legislature, to make grants, to support
22 the Model Shop Program pursuant to this chapter, and to pay for
23 administrative costs associated with the implementation of this
24 chapter. No more than 5 percent of moneys deposited into the fund
25 may be used for administrative purposes.

26 SEC. 8. ~~Section 42103 of the Public Resources Code is~~
27 ~~amended to read:~~

28 42103. The department may consult with the air board and
29 water board, and shall prepare and adopt criteria and procedures
30 for evaluating applications for grants awarded pursuant to this
31 chapter, as well as establish the appropriate requirements to
32 determine that the equipment purchased or proposed to be
33 purchased assists the small business in exceeding new or existing
34 applicable environmental standards. In developing these criteria,
35 the department shall specifically consider proximity of the facility
36 to sensitive receptors and residences and coordinate with existing
37 enforcement activities. The department shall give priority to
38 need-based grants for smaller businesses.

39 SEC. 9. ~~Section 42105 of the Public Resources Code is~~
40 ~~repealed.~~

1 ~~SEC. 10. Section 42106 of the Public Resources Code is~~
2 ~~amended to read:~~

3 ~~42106. (a) The department, in consultation with the air board~~
4 ~~and water board, may adopt regulations to implement this chapter.~~
5 ~~The department may adopt emergency regulations to implement~~
6 ~~the grant program in accordance with Chapter 3.5 (commencing~~
7 ~~with Section 11340) of Part 1 of Division 3 of Title 2 of the~~
8 ~~Government Code, and for the purposes of that chapter, including~~
9 ~~Section 11346.1 of the Government Code, the adoption of these~~
10 ~~regulations is an emergency and shall be considered by the Office~~
11 ~~of Administrative Law as necessary for the immediate preservation~~
12 ~~of the public peace, health, and safety, and general welfare.~~
13 ~~Notwithstanding Chapter 3.5 (commencing with Section 11340)~~
14 ~~of Part 1 of Division 3 of Title 2 of the Government Code, an~~
15 ~~emergency regulation adopted by the board pursuant to this section~~
16 ~~shall be filed with, but not repealed by, the Office of Administrative~~
17 ~~Law, and shall remain in effect until revised by the department.~~

18 ~~(b) Regulations adopted by the agency pursuant to this section~~
19 ~~that are in effect on or before January 1, 2010, shall remain in~~
20 ~~effect until revised by the department.~~

21 ~~SEC. 11. Section 42107 of the Public Resources Code is~~
22 ~~amended to read:~~

23 ~~42107. (a) This chapter shall remain in effect only until January~~
24 ~~1, 2014, and as of that date is repealed, unless a later enacted~~
25 ~~statute, which is enacted before January 1, 2014, deletes or extends~~
26 ~~that date.~~

27 ~~(b) All unencumbered moneys in the Chrome Plating and Metal~~
28 ~~Finishing Pollution Prevention Fund on January 1, 2014, shall be~~
29 ~~transferred to the General Fund.~~